

USDOL/OALJ Reporter

[*Bivens v. Louisiana Power & Light*, 89-ERA-30 \(Sec'y July 8, 1992\)](#)

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DATE: July 8, 1992
CASE NO. 89-ERA-30

IN THE MATTER OF

KENNITH J. BIVENS,

COMPLAINANT,

v.

LOUISIANA POWER & LIGHT,

RESPONDENT .

BEFORE: THE SECRETARY OF LABOR

FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT

Before me for review is the Recommended Decision and Order (R.D. and O.) of the Administrative Law Judge (ALJ) in this case arising under the employee protection provision of the Energy Reorganization Act of 1974, as amended (ERA), 42 U.S.C. § 5851 (1988). The ALJ recommends approval of the Settlement Agreement and General Release submitted by the parties.

This settlement agreement appears to encompass the settlement of matters arising under various laws, only one of which is the ERA. For the reasons set forth in *Poulos v. Ambassador Fuel Oil Co., Inc.*, Case No. 86-CAA-1, Sec. Order, Nov. 2, 1987, slip op. at 2, I have limited my review of the agreement to determining whether its terms are a fair, adequate and reasonable settlement of Complainant's allegations that Respondent violated the ERA.

I note that provision No. 11 states that the agreement "shall in all respects be interpreted, enforced and governed under the law of the State of Louisiana." I interpret this statement as not limiting the authority of the Secretary or the United States district court under the statute and the regulations. 42 U.S.C. 5851(d); 29 C.F.R. § 24.8(a) (1991); *Phillips v. Citizens Association for Sound Energy*, Case No. 91-ERA-25, Sec. Final Order of Dismissal, Nov. 4, 1991, slip op. at 2.

As so construed, I find the terms of the settlement agreement

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to be a fair, adequate and reasonable settlement of Complainant's

allegations that Respondent violated the ERA. Accordingly, the complaint is DISMISSED.

SO ORDERED.

LYNN MARTIN
Secretary of Labor

Washington, D.C.